

United States
Circuit Court of Appeals
For the Ninth Circuit.

W. B. PAINE, Trustee in Bankruptcy of the Estate
of WISHKAH LOGGING COMPANY, a
Corporation, Bankrupt,

Petitioner,

vs.

F. R. ARCHER, Receiver,

Respondent.

In the Matter of WISHKAH LOGGING COM-
PANY, a Corporation, Bankrupt.

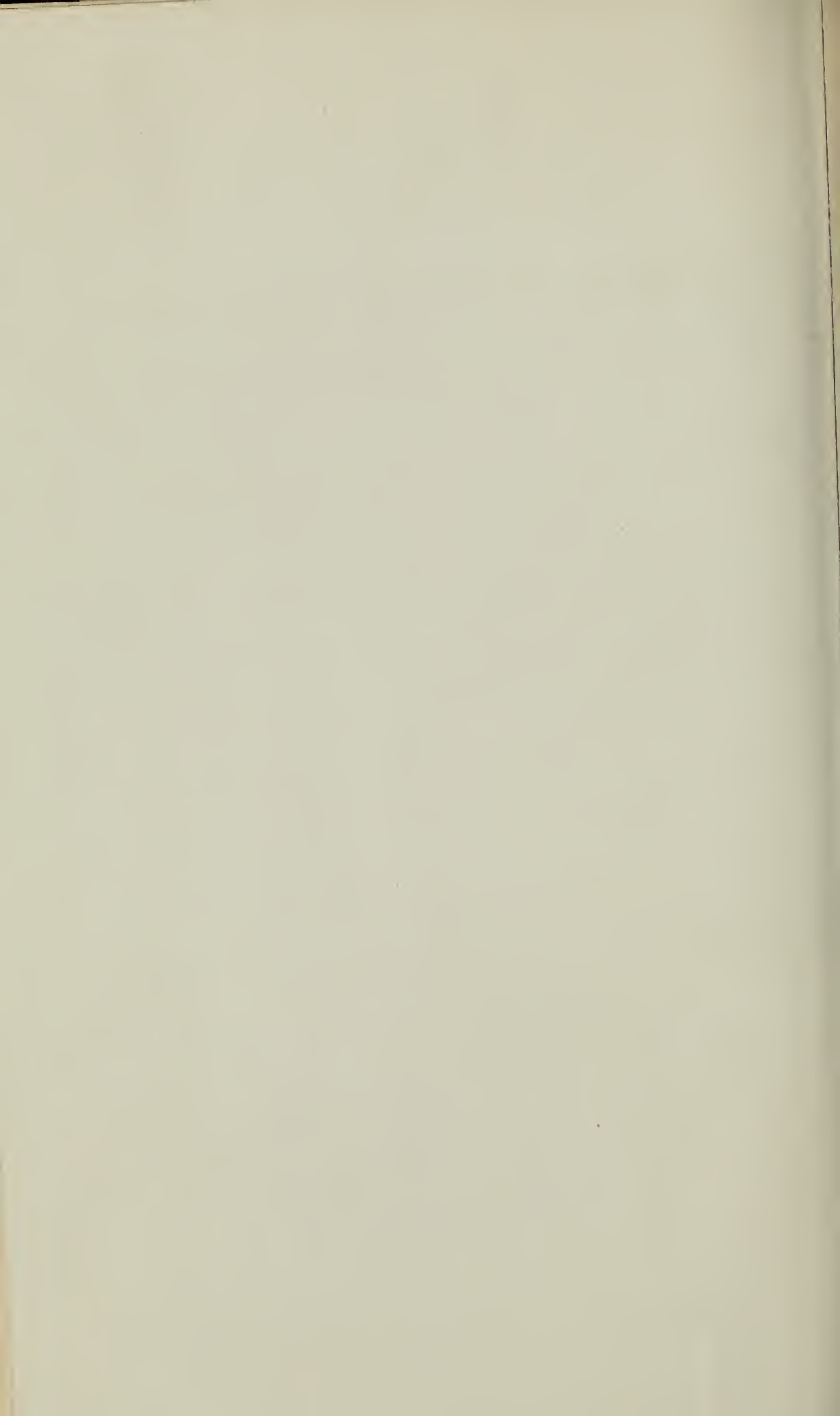
Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress, Approved
July 1, 1898, to Revise, in Matter of Law, an Order of
the United States District Court for the
Western District of Washington,
Southern Division.

Filed

JAN 13 1916

F. D. Monckton,
Clerk.



United States
Circuit Court of Appeals
For the Ninth Circuit.

W. B. PAINE, Trustee in Bankruptcy of the Estate
of WISHKAH LOGGING COMPANY, a
Corporation, Bankrupt,

Petitioner,

vs.

F. R. ARCHER, Receiver,

Respondent.

In the Matter of WISHKAH LOGGING COM-
PANY, a Corporation, Bankrupt.

Petition for Revision

Under Section 24b of the Bankruptcy Act of Congress, Approved
July 1, 1898, to Revise, in Matter of Law, an Order of
the United States District Court for the
Western District of Washington,
Southern Division.

INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

	Page
Attorneys, Names and Addresses of.....	9
Certificate of Clerk U. S. District Court to Transcript of Record.....	18
Certificate of Referee in Bankruptcy as to Items Allowed as Expense and Costs of Adminis- tration	17
Names and Addresses of Attorneys.....	9
Notice of Filing of Petition for Review.....	4
Order Directing That Order of District Court be Revised in Matter of Law, etc.....	19
Order of Referee Approved by the Court Dis- bursing Funds	16
Petition for Payment of Fees.....	13
Petition for Revision.....	1
Power of Attorney.....	11
Praecipe for Transcript.....	9
Proof of Claim of F. R. Archer.....	10
Proof of Claim of Chehalis County for Taxes..	12
Referee's Certificate	17
Transcript of Record in Support of Petition for Revision	7

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

IN BANKRUPTCY—No. 1699.

In the Matter of WISHKAH LOGGING COM-
PANY, a Corporation,

Bankrupt.

Petition [for Revision].

To the Honorable Judges of the United States Cir-
cuit Court of Appeals for the Ninth Circuit:

Your petitioner respectfully shows:

That he is the duly elected, qualified and acting trustee in bankruptcy of the above-entitled estate; that he resides at Aberdeen, Washington; that said bankrupt was so adjudged by the above-entitled court on the 21st day of November, 1914.

That after such adjudication the following proceedings were had in the case of said bankrupt:

Immediately following the order of reference a claim was filed by Chehalis County, Washington, for unpaid, due and delinquent taxes against the property of said estate, in the sum of \$452.15, together with accrued interest.

That thereafter, there was filed by F. R. Archer, a claim in the sum of \$256.00, which sum represented the amount allowed said Archer by the Superior Court of Washington for Chehalis County, for his services and expenses as receiver in the State Court prior to the adjudication of bankruptcy, which services being for necessary work and labor in the preservation of said estate prior to bankruptcy; that said services were so performed within four months

prior to the adjudication of said bankruptcy.

That thereafter, upon application of the trustee, W. H. Tucker, Referee, at Aberdeen, Washington, made an order disbursing all of the funds in the hands of the trustee for the payment of the cost of the administration and attorneys' fees; that the total sum so disbursed was the sum of \$300.00, and that the said sum of \$300.00 was all the money received by the trustee during the administration of the trust, and that there were and are no other moneys or other assets belonging to said bankrupt estate.

Thereafter, the claimant, F. R. Archer, upon petitions for review before the Hon. Edward Cushman, judge of said court, brought up for hearing and disposition the question of the priority of the claim of the receiver in the State Court, and it was by the said Court decided and ordered that the claim of \$256.00 due the receiver in the State Court be entitled to priority of payment as against the cost of administration and attorneys' fees, and taxes due Chehalis County, Washington; that said memorandum decision by the said Hon. Edward Cushman was made and filed June 30th, 1915.

That thereafter, on the 31st day of July, 1915, the said W. H. Tucker, Referee, made an order disbursing to the said F. R. Archer, receiver in the State Court, the sum of \$256.20, and that thereafter and on the 25th day of October, 1915, the said order was approved and payment directed by the Hon. Edward Cushman, judge of the above-entitled court.

That said order was erroneous in manner of law in that:

The allowance made by the referee to the receiver in the State Court, is entieled to priority only as against general creditors, and that the expense of administration and taxes due Chehalis County, Washington, are a first and prior charge against the assets in the hands of the trustee.

WHEREFORE, your petitioner feeling aggrieved because of such order, asks that the same may be revised in manner of law by your Honorable Court, as provided in Section 24-B of the Bankruptcy Law of 1898, and the rules and practice in such payment provided.

W. B. PAINE,
Petitioner.

State of Washington,
County of Grays Harbor,
City of Aberdeen,—ss.

W. B. Paine, the petitioner mentioned and described in the foregoing petition, do hereby make reference on oath: That the statements of fact therein contained are true and according to the best of my knowledge, information and belief.

W. B. PAINE.

Subscribed and sworn to before me this 27 day of October, 1915.

[Seal]

R. E. TAGGART,
Notary Public for Washington, Residing at Aberdeen, Wash.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

IN BANKRUPTCY—No. 1699.

In the Matter of WISHKAH LOGGING COM-
PANY, a Corporation,

Bankrupt.

Notice [of Filing of Petition for Review].

To F. R. Archer, Receiver, and to A. M. Wade, His
Attorney of Record:

You, and each of you, will please take notice that I have this day sent to the clerk of the above-named court at the Federal Courthouse in the City of San Francisco, California, and will file with the said clerk the annexed petition of W. B. Paine, Trustee, for review by the above-named court of a certain order of the District Court of the United States for the Western District of Washington, Southern Division, filed in the office of the clerk of that court on the 25th day of October, 1915, confirming the report of W. H. Tucker, Referee, made on the 31st day of July, 1915, in pursuance and in conformity with a decision made by the Honorable Edward Cushman in the above-named District Court and filed June 30th, 1915.

Dated November 3d, 1915.

G. R. SNIDER,

Attorney for W. B. Paine, Trustee.

Service of copy of above notice together with copy of petition for review admitted at Aberdeen, Wash.,

this 3d day of November, 1915.

A. M. WADE,
Atty. for F. R. ARCHER.

[Endorsed]: No. 2676. United States Circuit Court of Appeals for the Ninth Circuit. W. B. Paine, Trustee in Bankruptcy of the Estate of Wishkah Logging Company, a Corporation, Bankrupt, Petitioner, vs. F. R. Archer, Receiver, Respondent. In the Matter of Wishkah Logging Company, a Corporation, Bankrupt. Petition for Revision Under Section 24b of the Bankruptcy Act of Congress, Approved July 1, 1898, to Revise, in Matter of Law, an Order of the United States District Court for the Western District of Washington, Southern Division.

Filed November 6, 1915.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

